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# SENATE BILL No. 333

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-13.5.

**Synopsis:** Capital investment tax credit. Provides a credit against state tax liability for certain qualified capital investments made by a taxpayer. Provides that the amount of the credit is equal to either 7% or 14% (if the investment is made in a "distressed area") of the difference between the amount of the taxpayer's qualified investment and the amount of the taxpayer's average annual expenditure in Indiana during the previous three years for similar capital investments. Requires the department of commerce to certify the investments as being eligible for the credit.

**Effective:** January 1, 2001 (retroactive).

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**Jackman**

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January 16, 2001, read first time and referred to Committee on Energy and Economic Development.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE BILL No. 333

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-3.1-13.5 IS ADDED TO THE INDIANA CODE  
2       AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3       JANUARY 1, 2001 (RETROACTIVE)]:

4       **Chapter 13.5. Capital Investment Tax Credit**

5       **Sec. 1. As used in this chapter, "department" refers to the**  
6       **department of commerce.**

7       **Sec. 2. As used in this chapter, "distressed area" means any of**  
8       **the following:**

9           **(1) A county with a population of not more than fifty-five**  
10          **thousand (55,000).**

11          **(2) A county, city, or town in which the average rate of**  
12          **unemployment during the most recent five (5) year period for**  
13          **which data is available is greater than two hundred percent**  
14          **(200%) of the average rate of unemployment for the United**  
15          **States for the same period.**

16          **(3) A county, city, or town in which at least twenty percent**  
17          **(20%) of the residents have a total income, for the most recent**



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year for which data is available, that is below the federal nonfarm income poverty level, as determined annually by the federal Office of Management and Budget.

Sec. 3. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

Sec. 4. As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures for:

- (1) the purchase of new manufacturing or production equipment;
- (2) the purchase of new computers and related equipment;
- (3) costs associated with the modernization of existing manufacturing facilities;
- (4) onsite infrastructure improvements;
- (5) the construction of new manufacturing facilities;
- (6) costs associated with retooling existing machinery and equipment; and
- (7) costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry;

that are certified by the department under section 11 of this chapter as being eligible for the credit under this chapter, if the equipment, machinery, facilities improvements, facilities, buildings, or foundations are installed or used in Indiana.

Sec. 5. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.1 (the gross income tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-3-8 (the supplemental net income tax);
- (4) IC 6-5-10 (the bank tax);
- (5) IC 6-5-11 (the savings and loan association tax);
- (6) IC 27-1-18-2 (the insurance premiums tax); and
- (7) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 6. As used in this chapter, "taxpayer" means a person, corporation, partnership, or other entity that has any state tax

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liability.

Sec. 7. (a) Subject to the provisions of this chapter, a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is:

(1) the greater of zero (0) or the difference between:

(A) the qualified investment made by the taxpayer during the taxable year; minus

(B) the taxpayer's average annual expenditure in Indiana for purposes described in section 4 of this chapter during the three (3) years preceding the taxable year; multiplied by

(2) the applicable credit percentage specified in subsection (c).

(c) The following credit percentage shall be used for purposes of subsection (b)(2):

(1) Fourteen percent (14%), in the case of a qualified investment that is made in a distressed area.

(2) Seven percent (7%), in the case of a qualified investment that is not made in a distressed area.

Sec. 8. A taxpayer may claim the credit under this chapter only if:

(1) the average wage paid by the taxpayer to its Indiana employees within the county in which the qualifying investment is made exceeds the average wage paid in that county; or

(2) the taxpayer certifies to the department and provides proof as determined by the department that, as a result of the qualifying investment, the average wage paid by the taxpayer to its Indiana employees within the county in which the qualifying investment is made will exceed the average wage paid in that county.

Sec. 9. (a) If a pass through entity does not have state income tax liability against which the tax credit provided by this chapter may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder or partner of a pass through



entity is otherwise entitled under this chapter.

Sec. 10. (a) The total value of a tax credit under this chapter shall be divided equally over seven (7) years, beginning with the year in which the credit is granted. If the amount of credit provided under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to not more than three (3) subsequent taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 11. (a) To be entitled to a credit under this chapter, a taxpayer must request the department of commerce to determine whether an expenditure is a qualified investment.

(b) To make a request under subsection (a), a taxpayer must file with the department a notice of intent to claim the credit under this chapter. A taxpayer must file the notice with the department not later than February 15 of the calendar year following the calendar year in which the expenditure is made.

(c) After receiving a notice of intent to claim the credit, the department shall review the notice and determine whether the expenditure is a qualified investment and whether the taxpayer is entitled to claim the credit. The department shall, before April 1 of the calendar year in which the notice is received, send to the taxpayer and to the department of state revenue a letter:

(1) certifying that the taxpayer is entitled to claim the credit under this chapter for the expenditure; or

(2) stating the reason why the taxpayer is not entitled to claim the credit.

Sec. 12. To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the certification letter provided under section 11 of this chapter. The taxpayer shall submit to the department of state revenue all information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter and for the determination of whether an expenditure was for a qualified investment.

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1       **Sec. 13. If a taxpayer receives a credit under this chapter, the**  
2 **equipment, machinery, facilities improvements, facilities,**  
3 **buildings, or foundations for which the credit was granted must be**  
4 **fully installed or completed not more than five (5) years after the**  
5 **department issues a letter under section 11 of this chapter**  
6 **certifying that the taxpayer is entitled to claim the credit.**

7       **Sec. 14. The department and the department of state revenue**  
8 **shall adopt rules to carry out this chapter.**

9       **SECTION 2. [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)]**  
10 **IC 6-3.1-13.5, as added by this act, applies only to taxable years**  
11 **beginning after December 31, 2000.**

12       **SECTION 3. An emergency is declared for this act.**

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